

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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JOSHUA MALLORY,

Plaintiff,

v.

NEW HORIZONS SECURITY STAFF,

Defendant.

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No. 2:21-cv-02403-SHL-cgc

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING  
COMPLAINT**

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Before the Court is Magistrate Judge Claxton’s Report and Recommendation regarding Plaintiff’s Complaint (Report), filed July 12, 2021, recommending that the Court dismiss the Complaint. (ECF No. 7.) Plaintiff filed an Objection to the Report on July 30, 2021. (ECF No. 8.)

A magistrate judge may submit to a judge of the court proposed findings of fact and recommendations for dismissal of a complaint for failure to state a claim. 28 U.S.C. § 636(b)(1)(B). “Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2); see also 28 U.S.C. § 636(b)(1) (2017). A district court reviews de novo only those proposed findings of fact or conclusions of law to which a party specifically objects. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff’s Objection was filed four days past his deadline to do so. In allowing deference to a pro se plaintiff, however, the Court will consider the Objection. However, in his Objection, Plaintiff points to no specific issues, stating only that he has proof to support his allegations and re-asserting that he was assaulted by Defendant’s staff and “deprived of work on that property.”

(ECF No. 8.) As observed in the Report, Plaintiff “has not alleged in what way New Horizons Security Staff was acting under color of state law nor has he stated in the Complaint what actions New Horizons Security Staff took to deprive him of rights secured by the ‘Constitution and laws’ of the United States,” as required to state a claim under 42 U.S.C. § 1983. (ECF No. 7 at PageID 14.) While Plaintiff may very well have proof, he must allege facts to support his claims, not just say they exist. Without factual allegations, Defendant cannot know what it is accused of.

As Plaintiff’s Objection fails to challenge any specific portion of the Report, his Complaint is not entitled to de novo review. Thus, the Court reviews the Report for clear error and finds none. The Court **ADOPTS** the Magistrate Judge’s Report and Plaintiff’s Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim.

**IT IS SO ORDERED**, this 2nd of August, 2021.

s/ Sheryl H. Lipman  
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SHERYL H. LIPMAN  
UNITED STATES DISTRICT JUDGE